

Article - Estates and Trusts

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§14.5–708.

(a) (1) (i) A testamentary trustee and trustee of any other trust whose duties comprise the collection and distribution of income from property held under a trust agreement or the preservation and distribution of the property are entitled to commissions provided for in this section for services in administering the trusts.

(ii) The amount and source of payment of commissions are subject to the provisions of any valid agreement.

(iii) A court having jurisdiction over the administration of the trust may increase or diminish commissions for sufficient cause or may allow special commissions or compensation for services of an unusual nature.

(2) A schedule of increased rates of income commissions and corpus commissions may be charged by a trustee whose activities are subject to State or federal supervision or that is a member of the Maryland Bar and who has:

(i) Filed a schedule of the increased rates of commissions with an appropriate agency; and

(ii) Given notice of the scheduled rates or revisions to the qualified beneficiaries of the affected trust.

(3) The notice required under paragraph (2) of this subsection shall be delivered to the qualified beneficiaries personally or sent to the qualified beneficiaries at their last known address by certified mail, postage prepaid, return receipt requested.

(b) (1) Accounting from July 1, 1981, regardless of whether the trust was in existence at that time, income commissions are:

(i) 6% on all income from real estate, ground rents, and mortgages collected in each year; and

(ii) 1. 6.5% on the first \$10,000 of all other income collected in each year;

2. 5% on the next \$10,000;

3. 4% on the next \$10,000; and

4. 3% on any remainder.

(2) (i) Income commissions shall be paid from and chargeable against income.

(ii) Income collected includes a portion of income payable to a trustee but withheld by the payor in compliance with revenue law.

(c) (1) Accounting from July 1, 1981, regardless of whether the trust was in existence at that time, commissions are payable at the end of each year on the fair value of the corpus or principal held in trust at the end of each year as follows:

(i) 0.4% on the first \$250,000;

(ii) 0.25% on the next \$250,000;

(iii) 0.15% on the next \$500,000; and

(iv) 0.1% on any excess.

(2) Corpus commissions under this subsection shall be paid out of and chargeable against the corpus.

(3) If a trust terminates, with respect to all or part of the corpus held in trust in the course of a year, the commission for that year shall be reduced or prorated according to the part of the year elapsed and the amount of corpus as to which the trust terminates, and be chargeable, for that part of the year, and with respect to this part of the corpus, at the termination of the trust, on the then value of the corpus.

(d) (1) For selling real or leasehold property, a commission on the proceeds of the sale is payable at the rate allowed by rule of court or statute to trustees appointed to make sales under decrees or orders of the circuit court for the county where the real or leasehold property is situated, or if the property is located outside Maryland, for selling similar property in the county where the trust is being administered.

(2) The commission described in paragraph (1) of this subsection is payable from the proceeds of the sale when collected.

(e) (1) On the final distribution of a trust estate or a portion of a trust estate, an allowance is payable commensurate with the labor and responsibility involved in making the distribution, including the making of a division, the ascertainment of the parties entitled to the distribution, the ascertainment and payment of taxes, and any necessary transfer of assets.

(2) The allowance described in paragraph (1) of this subsection is subject to revision or determination by a circuit court having jurisdiction.

(3) In the absence of special circumstances, the allowance described in paragraph (1) of this subsection shall be equal to 0.5% of the fair value of the corpus that is distributed.

(f) (1) In determining what is a single trust for the application of the rates provided in this section, all property held undivided under the terms of the will or other instrument creating the trust shall be considered as a single trust.

(2) After shares have been set apart or divided in accordance with paragraph (1) of this subsection, to be held in separate trust, each separate trust set apart shall be considered as a single trust.

(g) (1) Instead of the rates of income commissions and corpus commissions provided in subsections (b) and (c) of this section, a trustee may charge reasonable compensation calculated in accordance with a schedule of rates previously filed by the trustee with the appropriate agency as specified in paragraph (2) of this subsection, if the trustee is:

(i) A financial institution whose activities are subject to supervision by this State or the federal government or that is an instrumentality of the United States; or

(ii) A member of the Maryland Bar.

(2) A trustee shall file a schedule of rates under this subsection as follows:

(i) For a savings and loan association, with the State Director of the Division of Savings and Loan Associations;

(ii) For all other trustees, including attorneys and State chartered and national banks, with the Commissioner of Financial Regulation; and

(iii) For a trustee administering an estate under the jurisdiction of a court, in addition to the filing described in item (i) or (ii) of this paragraph, with the trust clerk of the court.

(3) In a trust involving multiple trustees in which more than one of the trustees may be entitled to file a schedule of increased rates, the controlling schedule will be the schedule filed by the trustee having custody of the assets and maintaining records of the trust.

(4) (i) On the filing by a trustee of a schedule of increased rates under this subsection, the trustee shall give notice to the qualified beneficiaries of each affected trust.

(ii) The notice required under this paragraph shall be delivered to the qualified beneficiaries personally or sent to the qualified beneficiaries at the last known address of the qualified beneficiaries by certified mail, postage prepaid, return receipt requested.

(iii) A qualified beneficiary of a trust that objects to the schedule of rates to be charged to that trust, after notifying the trustee of the objection, may petition the appropriate circuit court to review the reasonableness of the rates to be charged.

(iv) The notice required by this paragraph shall include a clear statement of the rights and procedures available to qualified beneficiaries under this subsection.

(v) If the court finds that the rates in the schedule are unreasonable for the current fiscal year of the particular trust, the commissions of the trustee for that trust for that fiscal year shall be limited to the rates charged that trust during the previous fiscal year.

(5) If a trustee does not file a schedule of rates with the appropriate agency under paragraph (2)(i) or (ii) of this subsection and does not notify qualified beneficiaries as provided in paragraph (4) of this subsection, the trustee is limited to charging the rates set forth in subsections (b) and (c) of this section.

(h) An individual trustee that is not authorized to file a schedule of increased rates under this section is limited to charging the rates set forth in subsections (b) and (c) of this section unless the trustee petitions the circuit court for the county where the trustee is located and obtains approval of an increase in fee after giving notice of the action to the qualified beneficiaries of the affected trusts.

(i) The schedule of increased rates of income commissions and corpus commissions which trustees are authorized to charge as provided in subsection (g) of this section is not applicable to guardians.

(j) The legal and court costs incurred by the trustee in accordance with a court review under subsection (g)(4) or subsection (h) of this section shall be charged against fees of the trustee and may not be assumed by the trust or the beneficiaries.

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